

Manslaughter
During Fight / Brawl Involving More Than Two People
Stabbing

Maximum Penalty: 25 years (s.25 (NSW) Crimes Act)

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
1.	Azar (1991) 56 A Crim R 414	Fight - stabbing Stabbing - general	VG	MT 4y 6m AT 18m [6m PSC]	AD	Nil	Stabbing during brawl – victim punched offender who obtained knife from nearby house and stabbed him
2.	Cheung (19) NSWCCA 12.3.1998	Provocation Fight - stabbing Stabbing - general	VG	MT 6y AT 2y	AD	nil	Fracas in street involving number of people following earlier argument in restaurant - two men stabbed, one fatally in chest seven times - victim had attacked offender with club-lock during fight - took knife anticipating violence
3.	PN (17) NSWSC Barr J 30.10.1998	Unlawful and dangerous - stabbing Stabbing – general Fight - stabbing Juvenile offender	PG	MT 8y AT 4y		assaults committed in gaol awaiting sentence; on bond at time of offence	Pacific Islander - brother involved in earlier fight with group - armed with knife went back with others to continue fight - stabbed one victim in back and fatally stabbed second victim under influence of alcohol and cannabis Tragic background – mother suicided when offender 2y, then watched sister suicide when 7y – low average intellectual disability
4.	Nikau [1999] NSWCCA 322	Unlawful and dangerous - stabbing Fight - stabbing Stabbing - general	PG	MT 8y AT 4y	AD		Stabbed victim during street fight between two groups - affected by drugs and alcohol Youthful offender

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
5.	Chami (20) [1999] NSWSC 1268 Studdert J	Unlawful and dangerous - stabbing Fight - stabbing Stabbing - general	PG	MT 5y 6m AT 3y		on bail for firearm offences	Stabbed stranger in brawl outside nightclub Contrition, drug user, prospects of rehabilitation
6.	Cardoso (22) [2001] NSWSC 775 Hulme J (2003) 137 A Crim R 535 [2003] NSWCCA 15	Provocation Stabbing – general Fight - stabbing	VG (at murder trial - 12.5% for offer on appeal)	8y NPP 5y	AA 7y NPP 4y	nil	Stabbed male stranger in head during confrontation in shopping centre - offender left fight and obtained table knife before returning and stabbing victim - high degree of force required - moderate degree of provocation Offender more sensitive because of refugee background - refugee from East Timor - difficult background - remorse - limited English - isolated
7.	Forbes (29) [2004] NSWSC 421 Hulme J (2005) 160 A Crim R 1 [2005] NSWCCA 377	<u>Manslaughter One</u> Unlawful and dangerous - stabbing Fight - stabbing Stabbing – general Accessory <u>Manslaughter Two</u> Excessive self defence Shooting – general	PG (12%) Mans VG Mansl (at murder trial - 12% for offer to plea)	12y NPP 9y 12y NPP 8y <u>Total:</u> 19y NPP 15y	AA 9y NPP 6y 9m 12y NPP 8y <u>Total:</u> 16y 9m NPP 12y 9m	Lengthy record – breached parole	Involved in fight outside hotel – male stabbed by friend of offender – aware friends intoxicated and had knife – aware risk knife would be used 3 months later took loaded gun to confront male acquaintance over disputed issues – aware victim violent – shot victim in caravan in subsequent struggle – second shot fired while victim on or near floor – intent to kill Low prospects of rehabilitation

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
8.	A.S.Jones (43) [2007] NSWSC 1333 Buddin J Co-offenders: A JONES SM JONES S JONES E JONES	Excessive self defence Provocation Fight - stabbing Stabbing – general Accessory	VG (at murder trial - 15% for offer) Mansl Mal wound Sched: 4 off	8y 3m NPP 5y 3m FT 18m <u>Total</u> 9y NPP 6y		Nil	All offenders part of Romany gypsy family – victims members of another Romany gypsy family related by marriage to offenders – during evening AS Jones and A Jones involved in aggressive altercation with members of victims’ family – both families armed selves and prepared for confrontation – SM Jones, S Jones and E Jones travelled to caravan park for purpose of confrontation – fight broke out in which male victim fatally stabbed and second male victim badly injured – not clear which offender responsible for fatal stabbing – element of self-defence and provocation – offenders convicted of alternative offences at trial for murder and attempt murder Father to A Jones and son of S Jones - exemplary conduct in custody – possibility of deportation – prospects of rehabilitation
9.	A.Jones (21) [2007] NSWSC 1333 Buddin J [2009] NSWCCA 169 Co-offenders: AS JONES SM JONES S JONES E JONES	Excessive self defence Provocation Fight - stabbing Stabbing – general Accessory	VG (at murder trial – 15% for offer) Mansl Mal wound Assault	8y 3m NPP 5y 3m FT 18m FT 4m <u>Total</u> 9y NPP 6y	AD	Minor	All offenders part of Romany gypsy family – victims members of another Romany gypsy family related by marriage to offenders – during evening AS Jones and A Jones involved in aggressive altercation with members of victims’ family – both families armed selves and prepared for confrontation – SM Jones, S Jones and E Jones travelled to caravan park for purpose of confrontation – fight broke out in which male victim fatally stabbed and second male victim badly injured – offender assaulted 16y female – not clear which offender responsible for fatal stabbing – element of self-defence and provocation – convicted of alternative offences at trial for murder and attempt murder Son of AS Jones - remorse – prospects of rehabilitation

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
10.	S.M.Jones (32) [2007] NSWSC 1333 Buddin J Co-offenders: AS JONES A JONES S JONES E JONES	Excessive self defence Provocation Fight - stabbing Stabbing – general Accessory	PG (15%) Mansl Mal wound	8y 3m NPP 5y 3m FT 18m <u>Total</u> 9y NPP 6y		Minor	All offenders part of Romany gypsy family – victims members of another Romany gypsy family related by marriage to offenders – during evening AS Jones and A Jones involved in aggressive altercation with members of victims’ family – both families armed selves and prepared for confrontation – SM Jones, S Jones and E Jones travelled to caravan park for purpose of confrontation – fight broke out in which male victim fatally stabbed and second male victim badly injured – not clear which offender responsible for fatal stabbing – element of self-defence and provocation Evaded police and voluntarily surrendered during trial of other offenders
11.	S.Jones (64) [2007] NSWSC 1333 Buddin J Co-offenders: AS JONES A JONES SM JONES E JONES	Excessive self defence Provocation Fight - stabbing Stabbing – general Accessory	VG Mansl Mal wound	7y 9m NPP 4y 9m FT 18m <u>Total</u> 8y 6m NPP 5y 6m		Minor	All offenders part of Romany gypsy family – victims members of another Romany gypsy family related by marriage to offenders – during evening AS Jones and A Jones involved in aggressive altercation with members of victims’ family – both families armed selves and prepared for confrontation – SM Jones, S Jones and E Jones travelled to caravan park for purpose of confrontation – fight broke out in which male victim fatally stabbed and second male victim badly injured – not clear which offender responsible for fatal stabbing – element of self-defence and provocation – offenders convicted of alternative offences at trial for murder and attempt murder Father to AS Jones and S Jones and grandfather of A Jones

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
12.	E.Jones (female) 63) [2007] NSWSC 1333 Buddin J Co-offenders: AS JONES A JONES SM JONES S JONES	Excessive self defence Provocation Fight - stabbing Stabbing – general Accessory	VG Mansl Mal wound	7y NPP 4y 6m FT 12m <u>Total</u> 7y 6m NPP 5y		Nil	All offenders part of Romany gypsy family – victims members of another Romany gypsy family related by marriage to offenders – during evening AS Jones and A Jones involved in aggressive altercation with members of victims’ family – both families armed selves and prepared for confrontation – SM Jones, S Jones and E Jones travelled to caravan park for purpose of confrontation – fight broke out in which male victim fatally stabbed and second male victim badly injured – not clear which offender responsible for fatal stabbing – element of self-defence and provocation – offenders convicted of alternative offences at trial for murder and attempt murder Culpability slightly less – wife of S Jones, mother to AS Jones – health problems – isolation from family (most in custody)
13.	Sin (20) [2008] NSWSC 621 McClellan CJ at CL	Unlawful and dangerous - stabbing Fight - stabbing Stabbing - general	PG (12.5%)	10y 6m NPP 7y		Driving offences and involvement in brawl	Fight outside shopping centre between Lebanese and Asian groups – offender stabbed male in side with cheese knife – no intent to inflict deep wounds Genuine remorse – Cambodian – prospects of rehabilitation
14.	TT (20) RT (17) ET (25) [2009] NSWSC 437 Lathan J	Excessive self defence Juvenile offender Stabbing – general Fight - stabbing Accessory (TT and ET)	PG (15%)	6y 3m NPP 3y 3m 6y 6m NPP 3y 6m 6y NPP 3y		Breached bond for minor offence Nil Nil	TT and RT became involved in fight on street with group of men including victim – woke brother and returned to scene armed with sword and knife – victim stabbed by RT – TT and ET charged on basis of participation in affray in knowledge that serious physical injury could result – moderately below mid-range TT and ET suffered skull fractures from affray – good prospects of rehabilitation – no problem with alcohol and drugs - remorse

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
15.	HT (16) [2010] NSWSC 324 Hidden J	Excessive self defence Juvenile offender Fight – stabbing Victim under 18y Stabbing - general	PG (15%) Mansl Carry knife in public place	6y NPP 3y FT 3m (concurrent)		nil	Fatally stabbed 17y youth on train – victim’s group pursued offender’s group on train – victim stabbed several times to chest when he approached offender throwing punches – carried knife for personal protection Deep remorse – fearful as a result of being a victim of violence in the past – violence out of character
16.	Lynch (24) [2010] NSWSC 952 Studdert AJ	Provocation Fight – stabbing Stabbing - general	PG (15%)	7y NPP 5y		minor	Stabbed victim lightly to back of neck then fatally to stomach during confrontation between group of people outside house at night – all drinking – used work knife – intent to cause GBH – provocation of pushing offender’s fiancé significant and shortly before stabbing Genuine remorse – good character
17.	Pirini (21) [2011] NSWSC 1395 RA Hulme J Co-offenders: LA ROSA AOULI COSTA MENZIES HAWI	Accessory Stabbing – general Assault – general Fight – assault / stabbing Unlawful and dangerous – assault / stabbing	PG (20%) Manslaughter Affray	6y NPP 3y FT 2y 2m <u>Total:</u> 6y 6m NPP 3y 6m		Driving offences	Member of Comanchero motor cycle club – involved in affray at airport terminal where member of rival Hell’s Angels club killed – member of rival club pursued and assaulted inside security gate by Comancheros including offender – involved in scuffle but did not punch or kick – during affray outside security area involved in fight with single member of rival club but did not use weapon and did not assault manslaughter victim – during common purpose to intimidate contemplated possibility that unlawful and dangerous act would be committed with appreciable risk of serious injury Left Club - good prospects of rehabilitation – remorse

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
18.	La Rosa (37) [2011] NSWSC 1394 RA Hulme J Co-offenders: PIRINI AOULI COSTA MENZIES HAWI	Accessory Stabbing - general Assault – general Fight – stabbing / assault Unlawful and dangerous – assault / stabbing	PG (15%) Manslaughter Affray	6y 7m NPP 3y 3m FT 2y 4m <u>Total:</u> 7y 1m NPP 3y 9m		Driving offences – on bail for driving offence	Treasurer of Comanchero motor cycle club – involved in affray at airport terminal where member of rival Hell's Angels club killed – member of rival club pursued and assaulted inside security gate by Comancheros - affray outside security area where manslaughter victim fatally assaulted and stabbed – present but no physical acts during either incident - during common purpose to intimidate contemplated possibility that unlawful and dangerous act would be committed with appreciable risk of serious injury Left Club - good prospects of rehabilitation - remorse
19.	Aouli (28) [2011] NSWSC 1393 RA Hulme J [2012] NSWCCA 104 Co-offenders: PIRINI COSTA LA ROSA MENZIES HAWI	Accessory Stabbing - general Assault – general Fight – stabbing / assault Unlawful and dangerous – assault / stabbing	PG (12.5%) Manslaughter Affray	5y 8m NPP 3y FT 2y 5m <u>Total:</u> 6y 2m NPP 3y 6m	AD	Priors including assault – breached bail	Member of Comanchero motor cycle club – involved in affray at airport terminal where member of rival Hell's Angels club killed – flew in from Melbourne with other members of club having arranged for additional members to meet at airport - member of rival club pursued and assaulted inside security gate by Comancheros including offender – did not throw punch – present during affray outside security area where manslaughter victim fatally assaulted and stabbed but not physically involved – during common purpose to intimidate contemplated possibility that unlawful and dangerous act would be committed with appreciable risk of serious injury Left Club - good prospects of rehabilitation – remorse – good employment history

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
20.	Costa (29) [2011] NSWSC 1392 RA Hulme J Co-offenders: PIRINI AOULI LA ROSA MENZIES HAWI	Accessory Stabbing - general Assault – general Fight – stabbing / assault Unlawful and dangerous – assault / stabbing	PG (12.5%) Manslaughter Affray	6y 7m NPP 3y 4m FT 2y 4m Total: 7y 1m NPP 3y 9m		Nil	Secretary of Comanchero motor cycle club – involved in affray at airport terminal where member of rival Hell’s Angels club killed – met Club members alighting from plane having arranged for attendance of other members at airport - member of rival club pursued and assaulted inside security gate by Comancheros including offender - involved in scuffle but did not punch or kick – present during affray outside security area where manslaughter victim fatally assaulted and stabbed but not physically involved – during common purpose to intimidate contemplated possibility that unlawful and dangerous act would be committed with appreciable risk of serious injury Left Club - good prospects of rehabilitation – remorse – good work ethic – married with two children
21.	Barghachoun (21) [2011] NSWSC 1534 Johnson J Co-offender: AH SMITH [2012]	Accessory Fight - stabbing Stabbing – general Unlawful and dangerous - stabbing	PG (20%)	4y NPP 2y 3m		Short record	Involved in fight between two groups of youths and men at night – responded to call for assistance and attended scene armed with metal pole and expecting fight - male from second group stabbed in chest – offender not aware of knife nor of stabbing until group left scene – unlawful and dangerous act was affray Good prospects of rehabilitation - remorse
22.	AH (16) [2011] NSWSC 1535 Johnson J [2013] NSWCCA 32 Co-offender: BARGHACHOUN SMITH	Accessory Fight - stabbing Stabbing – general Juvenile offender Unlawful and dangerous - stabbing	PG (20%)	4y NPP 2y	AD	Record – breached bond	An instigator of fight between two groups of youths and men at night – agreed to several confrontations – continuing argument with male from second group – called for assistance and attended scene armed with metal pole and expecting fight - male from second group stabbed in chest – offender not aware of knife nor of stabbing until group left scene – unlawful and dangerous act was affray Immaturity

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
23.	Smith (18) [2012] NSWSC 38 Mathews AJ Co-offender: BARGHACHOUN AH	Excessive self defence Fight - stabbing Stabbing - general	VG (at murder trial – 20% for offer to plead)	6y NPP 3y		Nil	Stabbed male during confrontation between two groups at night – victim called in to support one group and approached offender with bat – stabbed victim once to side of body in self-defence – spontaneous offence – took knife from friend earlier to prevent friend using it Impeccable character – offence out of character – immediate remorse – onerous bail conditions
24.	Menzies (26) [2012] NSWSC 158 RA Hulme J Co-offenders: PIRINI AOULI LA ROSA COSTA HAWI	Accessory Stabbing - general Assault – general Fight – stabbing / assault Unlawful and dangerous – assault / stabbing	PG (15%) Mansl VG Affray	7y 2m NPP 3y 8m 3y <u>Total:</u> 7y 8m NPP 4y 2m		Two incidents of violence in public place	Member of Comanchero motor cycle club – involved in affray at airport terminal where member of rival Hell's Angels club killed – flew in from Melbourne with other members of club – involved in affray where member of rival club pursued and assaulted inside security gate by Comancheros – present during affray outside security area where manslaughter victim fatally assaulted and stabbed - sentenced for participation in joint criminal enterprise to commit unlawful and dangerous act in circumstances which objectively carried appreciable risk of serious injury being caused Aboriginal - left Club - good prospects of rehabilitation – genuine remorse
25.	Cook (18) [2012] NSWSC 480 Garling J	Excessive self defence Fight - stabbing Stabbing - general	PG (25%)	7y 6m NPP 4y		BE&S - on bond at time of offence.	Stabbed victim once in chest during affray between two groups of males – victim walking towards offender with broken bottle – both took swing at each other – offender did not bring knife to fight but had picked it up in self-defence – actions of immature teenager Employed – reasonable rehabilitation prospects – little chance of reoffending – general good character

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
26.	Hawi (28) [2015] NSWSC 206 Hoeben CJ at CL Co-offenders: PIRINI COSTA LA ROSA MENZIES AOULI	Stabbing – general Assault - general Accessory Fight – stabbing / assault Unlawful and dangerous – stabbing / assault	PG (17.5%)	6y 2m NPP 3y 6m		Nil significant	President of Comanchero motor cycle club – involved in affray at airport terminal where member of rival Hell’s Angels club killed – member of rival club pursued and assaulted inside security gate by Comancheros - affray outside security area where victim fatally assaulted and stabbed – present but no physical acts during either incident - common purpose to intimidate and contemplated possibility unlawful and dangerous act would be committed with appreciable risk of serious injury – aggravating factor that it took place in public airport Good prospects of rehabilitation – good family support
27.	McGuinness (26) [2016] NSWSC 1806 RA Hulme J	Excessive self- defence Stabbing – general Fight – stabbing	PG (15%)	8y 6m NPP 6y 4m		Reckless wounding	Became involved in incident between two groups - victim invited offender to fight – punched offender to head - victim initiated and gained upper hand in assault – offender stabbed victim once to neck – did not directly aim to stab in neck but clearly directed knife toward upper body - intention to inflict really serious harm - moderate objective seriousness. Reasonable prospects rehabilitation – ADHD.
28.	Borja (18) [2024] NSWSC 44 Weinstein J	Stabbing – general Excessive self defence Fight - stabbing	PG (10%) Manslaughter s.35(4) s.35(4)	<u>Indicative:</u> 7y 2m 3y NPP 1y 10m 4y NPP 2y 6m <u>Aggregate:</u> 9y 6m NPP 5y 9m		nil	Stabbed three males during violent fight in public reserve between two groups – dispute over housing between one member of each group – all victims unknown to offender at time of offence – stabbed two victims, one unarmed, in arm, back and chest – fatally stabbed third victim once in neck in act of excessive self-defence – victim armed with unpowered reciprocating saw – perceived threat from bigger man armed with heavy saw in context of mayhem of melee – no intent to kill – single stab wound - unreasonable response – reckless wounding offences just below and somewhere above mid-range Complex psychological history – sexual abuse, dysfunctional family life and domestic violence – substance abuse – PTSD – <i>Bugmy</i> principles applied - developing insight and remorse – youth and immaturity – prospects of rehabilitation guarded – special circumstances

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
29.	JM (17) [2024] NSWSC 1345 Dhanji J	Excessive self - defence Stabbing – general Fight - stabbing	VG	5y NPP 2y 9m		Nil (mental health dismissal – treated as clear record)	Violent melee outside fast food restaurant – 17y victim had been aggressive and threatening towards offender in preceding days – sought out offender and initiated confrontation – at one point offender assaulted while on ground by group – perception of danger increased by mental health and cognitive deficiencies – swung knife at victim three times – significant level of threat – objectively exposed to risk of serious injury or death – believed necessary to defend self but not reasonable response – failed to take potential escape route – intent GBH only Long term impairments – anxiety, FASD and ADHD – cognitive and verbal deficits – very good prospects of rehabilitation – unlikely to re-offend – co-operation and conduct during trial – vulnerability in custody

Last Updated: Oct 2024